

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

) C/A: 3:11-cv-731-JFA
The State of South Carolina,)
Plaintiff,) **CONSENT INITIAL
SCHEDULING ORDER**
vs.)
AU Optronics Corporation, AU Optronics)
Corporation America,)
Defendants.)

This case was removed from the Court of Common Pleas of Richland County, South Carolina on March 25, 2011 on a number of grounds, including the Class Action Fairness Act (“CAFA”), 28 U.S.C. §§ 1332(d) and 1453. In § 1453(c)(1), CAFA permits a court of appeals to “accept an appeal from an order of a district court granting or denying a motion to remand.”

The current deadline for the defendants to respond to the complaint is April 15, 2011, as a result of an extension plaintiff granted under local rule 12.01. The deadline for plaintiff to move to remand is thirty days after the date of removal, April 24, 2011, as provided by 28 U.S.C. § 1447(c).

It is anticipated that the defendants will move to dismiss the complaint, the plaintiff will move to remand, and one of the parties may request that the Fourth Circuit Court of Appeals accept an appeal of this Court’s order on the remand motion as provided in 28 U.S.C. §1453(c)(1). This Court will, therefore, not be in a position to rule on defendants’

expected motion to dismiss the complaint until the remand motion and any appeal regarding it is finally resolved. There is no reason to require defendants to file and brief their motion to dismiss until it is clear whether this Court or another court will have jurisdiction over that motion.

Therefore, on defendants' motion¹ and with consent of plaintiff, this Court enters the following initial scheduling order, which it will amend once there is a final resolution of the plaintiff's expected motion to remand:

1. The deadline² for the defendants to respond to the complaint in this matter shall be thirty days after the earlier of (a) the date on which it becomes clear that there will be no appeal of any order this Court issues on the plaintiff's motion to remand, (b) the date on which there is a final ruling from the Fourth Circuit Court of Appeals in any appeal from any order this Court issues on the plaintiff's motion to remand, (c) the date on which plaintiff files a declaration that they will not move to remand this case, or (d) if plaintiff has not moved to remand, the expiration of the thirty day period set forth in 28 U.S.C. § 1447(c).

2. Plaintiff shall have thirty days to respond to any motion to dismiss the complaint filed by the defendants.

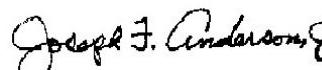
3. Defendants shall have twenty days to reply to any opposition to defendants' motion to dismiss that plaintiff may file.

1 The Court acknowledges that in making this motion the defendants maintain that they have not waived and specifically preserve all defenses or contentions either of them may assert in this action, including without limitation, lack of personal jurisdiction, insufficient service of process, running of the statute of limitations and failure to state a claim upon which relief may be granted. The Court makes no determination of any of those issues at this time.

2 Federal Rules of Civil Procedure 6(a) and 6(d) shall apply to time periods stated in this Order.

IT IS SO ORDERED.

April 7, 2011
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge